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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,878	08/31/2000	Theodore M. Taylor	4372US (99-1187)	3858
24247	7590	12/02/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			ELEY, TIMOTHY V	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 09/652,878	Applicant(s) TAYLOR, THEODORE M.	
	Examiner Timothy V. Eley	Art Unit 3724	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

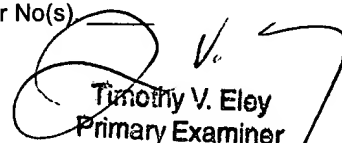
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): The 35 U.S.C. 102(b) rejection as anticipated by Nishi et al.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 1,2,6,11-16,40-52 and 55-71.
 Claim(s) objected to: _____.
 Claim(s) rejected: 72-74.
 Claim(s) withdrawn from consideration: 51, but will be rejoined since 49 is allowed.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____.
 13. ☒ Other: See Continuation Sheet.


 Timothy V. Eley
 Primary Examiner

Continuation of 13. Other: Applicant argues that the top plate 46 of the platen 40 could not be considered to be a subpad of the type recited in independent claim 74, as Crevasse lacks any express or inherent description that a negative pressure may be applied to a bottom surface of the top plate 46 to retain the same on the remainder of the platen 40. Moreover, even assuming, arguendo, that the top plate 46 of the platen 40 of Crevasse could serve as a subpad, Crevasse lacks any express or inherent description that the top plate 46 is removable from the remainder of the platen 40, or that the remainder of the platen 40 is configured to "removably retain" the top plate 46. Instead, it is apparent from the description provided at col. 4, lines 4-15 of Crevasse that the top plate 46 is pennanently fixed to the platen 40, and may not be removed therefrom.

However, it should be noted that some of the suction(or negative pressure) applied to the channel 48 will be applied to a that portion of the plate 46 between the openings 41-45, and this suction will aid in retaining the plate on the remainder of platen 40. Also, it should be noted that applicant does not recite that the subpad is "removably" retained.

Applicant argues that FIG. 5 of Nishi quite clearly illustrates, the peripheral edges of both the base member 2 and the polishing cloth 3 remain exposed when the channel groove 7 of the base member 2 is engaged by the protrusion 4a from the surface of the turntable 4. surdoes not expressly or inherently describe that the polishing cloth 3 thereof moves independently relative to the base member 2 of the cloth cartridge 1 thereof. Thus, the protrusion of Nishi does not comprise a "lip" that "substantially completely surround[s] a peripheral edge of a subpad," as would be required to anticipate each and every element of independent claim 72.

However, the lip 4a does completely surround "a peripheral edge" of the subpad 2. Furthermore, applicant does not positively recite the polishing pad in combination with the subpad support, and therefore, the apparatus of Nishi et al could be used with a polishing pad 3 which is movable independently from the subpad 2.